Docket No.: 09669/086001
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Van Tai Ngo et al.

Confirmation No.: 1360

Application No.: 10/581,130

Art Unit: 2185

Filed: May 31, 2006

Examiner: M.A. Giardino

For: METHOD TO CONTROL THE ACCESS IN A FLASH MEMORY AND SYSTEM FOR THE IMPLEMENTATION OF SUCH A METHOD

APPELLANTS' REPLY BRIEF UNDER 37 CFR § 41.41

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

Pursuant to 37 CFR § 41.41, please consider the following Appellants' Reply Brief in the referenced Application currently before the Board of Patent Appeals and Interferences. The present Reply Brief is in response to the Examiner's Answer dated April 3, 2009.

I. STATUS OF CLAIMS

U.S. Application Serial No. 10/581,130 was filed on May 31, 2006. Claims 1 and 3-13 remain pending. Claims 1 and 5 are independent. The remaining claims depend, directly or indirectly, from claims 1 and 5.

All the pending claims were finally rejected in the Office Action dated July 9, 2008. No after-final amendments were made. Therefore, all amendments have been entered. A Pre-Appeal Brief and Request for Review was filed, along with a Notice of Appeal, on October 9, 2008. A Notice of Panel Decision maintaining the rejection of claims 1 and 3-13 was mailed on November 17, 2008. An Appeal Brief was filed on December 17, 2008. In response, the Examiner issued an Examiner's Answer dated April 3, 2009.

Claims 1 and 3-13 are on appeal.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The present Appeal addresses the following grounds of rejection:

- Whether claims 1, 3, 5-7, 9, 10 and 12 are patentable under 35 U.S.C. § 103(a) over U.S. Patent No. 6,154,819 ("Larsen") in view of U.S. Patent No. 4,177,510 ("Appell").
- Whether claims 4, 11 and 13 are patentable under 35 U.S.C. § 103(a) over Larsen and Appell in view of U.S. Patent No. 6,401,160 ("See").
- Whether claim 8 is patentable under 35 U.S.C. § 103(a) over Larsen and Appell in view of U.S. Patent Application Publication No. 7,177,975 ("Toombs").

For purposes of the Appeal, claims 1 and 3-13 stand or fall together. Independent claim 1 is representative of the group including claims 1 and 3-13.

III. SUPPLEMENTAL ARGUMENTS

Independent claim 1 recites, in part, "making a second determination about whether the owner has permission to erase the entire sector in which the partition is located using a rule, wherein the rule verifies that the write request does not delete data of an owner other than the owner issuing the write request" (hereinafter, "the second determination step"). Appellants respectfully assert that the second determination step clearly requires two related parts: (i) a determination that is made; and (ii) a rule used in making the determination. The determination that is made is "whether the owner has permission to erase the entire sector in which the partition is located." The rule used in making the determination is "the write request does not delete data of an owner other than the owner issuing the write request."

At the outset, the Examiner admits that Larsen does not disclose or render obvious the limitation of the second determination step. *See* page 3 of the Office Action dated July 9, 2008. Rather, the Examiner relies upon Appell. *Id.* Turning to the Examiner's Answer, the Examiner correctly states that the second determination step involves "a determination about whether the owner has permission to erase the entire sector in which the partition is located." (*i.e.*, (i) of the second determination step as described above). *See* page 10 of the Examiner's Answer. However, the Examiner improperly equates the second determination step with a hardware check disclosed by Appell. *Id* (citing Appell: column 6 lines 61-68: "hardware checks determine that the address used by a process is part of the address space assigned to the process").

Appellants respectfully assert that the cited-to hardware check of Appell discloses a determination where a targeted memory can only be accessed by a process if the targeted memory belongs to that particular process. As such, Appellants further assert that the cited-to feature of Appell merely discloses the first determination step recited in independent claim 1 (*i.e.,* "making a first determination about whether an owner of the data to be written has write access to the partition of the sector"). For example, Appellants note that both the hardware check of Appell and the first determination step involve memory that is targeted by a process or a user (*i.e.*, owner of the data to be written"). Further, both the hardware check of Appell and the first determination step involve checking whether the process or user has access (*i.e.*, write access) to the targeted memory. *See* paragraphs [0009] and [0019] of the published application. In addition, the targeted memory, in the case of both Appell and the first determination step, involves memory on the order of a partition rather than a sector. *See* paragraph [0004] of the published application ("Flash memory is organised in sectors as shown in FIG. 1 … the memory space of each sector is divided into memory pages … grouped into partitions … a partition contains all pages of a sector allocated to a given owner."). For at least these reasons, Appellants respectfully assert that the hardware check of Appell at best discloses or renders obvious the first determination step recited by independent claim 1.

Turning to the second determination step, part (i) of the second determination step (*i.e.,* "whether the owner has permission to erase the entire sector in which the partition is located") involves sector-wide erasure. As such, the act of erasing affects the partition of the sector for which write-access is determined by the first determination step. In addition, the act of erasing also affects other partitions contained in the same sector. Because part (i) involves all other partitions in a sector *in addition to* the sector being written to, the second determination covers a broader scope

than merely determining if "the address used by a process is part of the address space assigned by the process" (*i.e.*, the hardware check determination disclosed by Appell). In view of this, Appellants respectfully assert that Appell merely considers whether a writing process has the proper ownership and hence the write access to write to a targeted address space. As such, Appell does not consider whether a writing process has the permission to erase other address spaces outside of the targeted address space. Further, as previously discussed, Appell discloses a hardware check that at best contemplates partition-wide access rather than the sector-wide scope of the second determination step. Accordingly, for at least these reasons, Appell does not disclose or render obvious part (i) of the second determination step.

As previously mentioned, part (ii) of the second determination step recites a rule (*i.e.,* "the write request does not delete data of an owner other than the owner issuing the write request") used in making the determination of part (i) of the second determination step as required by independent claim 1. Appellants reiterate that Appell does not use such a rule. Rather, the hardware check determination of Appell merely determines that the address used by a process is part of the address space assigned to the process. Accordingly, Appell does not disclose or render obvious part (ii) of the second determination step either.

In view of the above, over the Examiner has not provided sufficient evidence to establish a *prima facie* case of obviousness in view of Larsen and Appell for any of the pending claims. Accordingly, reversal of this rejection is respectfully requested.

IV. CONCLUSION

The Examiner's contentions do not support the rejection of the pending claims under 35 U.S.C. § 103. Accordingly, Appellants respectfully request that the Board of Patent Appeals and Interferences reverse the Examiner's rejections of the pending claims under 35 U.S.C. § 103.

Dated: June 3, 2009

Respectfully submitted,

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